

**Enrolled Minutes of the Ninety-first Regular or Special Meeting  
For the Twenty-Sixth Highland Town Council  
Regular Meeting  
Monday, November 14, 2011**

*Study Session.* The Twenty Sixth Town Council of the Town of Highland, Lake County, Indiana met in a study session preceding the regular meeting on Monday, November 14, 2011 at 6:50 O'clock P.M. in the regular place, the meeting chambers of the Highland Municipal Building, 3333 Ridge Road, Highland, Indiana.

*Silent Roll Call:* Councilors Bernie Zemen, Mark Herak, Dan Vassar, Konnie Kuiper, and Brian Novak were present. The Clerk-Treasurer, Michael W. Griffin was present to memorialize the proceedings. A quorum was attained.

**General Substance of Matters Discussed.**

1. The Town Council discussed some uses currently associated with the house at and property at 8839 Cottage Grove, Highland, particularly the storage use by the Highland Historical Society, and the use by the Support our Soldiers (SOS) Organization to permit storage and to extend its use to the garage on the site as well.
2. The Redevelopment Director reminded the Town Council of its appointment with the videographer to arrange for a website welcoming video featuring the Town Council.
3. The Town Council discussed the scheduling of the oaths of office and the organizational meeting. It was noted that the current Clerk-Treasurer and all the current members of the H Town Council were re-elected. It was further noted that the organizational ordinance provides that the election of the President and Vice President occur at the first special or regular meeting in January each year. It was further noted that January 1 occurs on a Sunday. It was determined that the Town Council would schedule its oath taking on Saturday December 31. There were no further details discussed and the discussion was silent regarding the scheduling of the oath for the clerk-treasurer.
4. The Town Council discussed the ABZA matter on the imminent meeting agenda.
5. The Town Attorney invited the Town Council and Department heads to a small holiday gathering at Langel's following the December 12 meeting of the Town Council.

The study session ended at 6:59 O'clock p.m.

*Regular Meeting.* The Twenty Sixth Town Council of the Town of Highland, Lake County, Indiana met in its regular session on Monday, November 14, 2011 at 7:00 O'clock P.M. in the regular place, the plenary meeting chambers of the Highland Municipal Building, 3333 Ridge Road, Highland, Indiana.

The Council President Brian Novak, presided and the Town Clerk-Treasurer was present to memorialize the proceedings. The meeting was opened with Councilor Konnie Kuiper reciting the Pledge of Allegiance to the Flag of the United States of America and offering a prayer.

**Roll Call:** Present on roll call were Councilors Bernie Zemen, Mark Herak, Dan Vassar, Konnie Kuiper and Brian Novak. The Clerk-Treasurer, Michael W. Griffin was present to memorialize the proceedings. A quorum was attained.

**Additional Officials Present:** Rhett L. Tauber, Town Attorney; John M. Bach, Public Works Director; Peter T. Hojnicky, Metropolitan Police Chief; Kenneth J. Mika, Building Commissioner; William R. Timmer, CFOD, Fire Chief; Alex M. Brown, CPRP, Parks and Recreation Superintendent; and Cecile Petro, Redevelopment Director were present.

**Also Present:** Ed Dabrowski, IT Director; George Georgeff and Ken Balon of the Metropolitan Police Department and Lisa Gauthier of the Community Events Commission were also present. In addition, Police Department retirees Richard Rakoczy; Marion Stepniewski; and Joseph Kwasny were also present.

#### Minutes of the Previous Session

The minutes of the regular meeting of 24 October 2011 and the Special Meeting of October 31, 2011 were approved by general consent.

#### Special Orders:

1. **Advisory Board of Zoning Appeals Docket:** Petition for a Use Variance for property located at **2924-2930 Clough Avenue, Highland**, to allow its continued use as a Multiple Family Residential, in property which is currently zoned as R-2 Two-Family Residential District. Petitioner: Eve Scott, 9328 Crystal Spring Drive, Fort Wayne, Indiana. The Advisory Board of Zoning Appeals by a vote of five (5) in favor and 0 opposed acted to **favorably recommend the request for the use variance**. The ABZA acted at its meeting of 26 October 2011. The findings of fact were memorialized and the board approved the facts in written form at its meeting of 26 October 2011. (90 days ends 24 January 2012).

*Pursuant to IC 36-7-4-918.6, the Town Council may either **accept the favorable recommendation** and grant the requested use variance or it may **reject (over rule) the favorable recommendation** and deny the use variance.*

Councilor Zemen moved to accept the recommendation of the Advisory Board of Zoning Appeals and grant the Use Variance as sought by the petitioner. Councilor Kuiper seconded. Upon a roll call vote, there were five affirmatives and no negatives. The motion passed. The use variance was approved.

During discussion on the motion but prior to the vote, Councilor Herak and the Building Commissioner had a colloquy regarding the use of the petitioner's property as a rental and what if any implications on the rental of the property there may be if the use variance is granted. The Building Commissioner indicated that no expansion of rental character of the property was inherently permitted.

**Staff Reports:** The Council received the following reports as information for the record:

#### • Building & Inspection Report for October 2011

Permit Type	Number.	Residential	Commercial	Est. Cost	Fees
Commercial	0	0	0	\$0.00	\$0.00
Buildings:					
Commercial	3	0	3	\$14,000.00	\$703.00
Additions or					
Remodeling:					
Signs:	5	0	5	\$10,318.00	\$1,338.50
Single Family:	1	1	0	\$190,000.00	\$2,322.00
Duplex / Condo:	0	0	0	\$0.00	\$0.00
Residential	0	0	0	\$0.00	\$0.00
Additions:					
Residential	66	66	0	\$330,012.00	\$6,292.50
Remodeling:					
Garages:	0	0	0	\$0.00	\$0.00
Sheds:	0	0	0	\$0.00	\$0.00
Decks & Porches:	5	5	0	\$16,369.00	\$810.00
Fences	9	9	0	\$10,345.00	\$712.00
Swimming pools:	0	0	0		\$0.00
Drain Tile	1	1	0	\$,805.00	\$117.00
/Waterproofing					

Misc.	5	0	5		\$600.00
<b>Total:</b>	<b>95</b>	<b>82</b>	<b>13</b>	<b>\$575,849.00</b>	<b>\$12,895.00</b>
Electrical Permits	7	5	2		\$844.50
Mechanical Permits	7	4	3		\$587.50
Plumbing Permits	3	3	0		\$424.75
Water Meters	3	3	0		\$815.00
Water Taps	1	1	0		\$200.00
Sewer/Storm Taps	2	2	0		\$600.00
<b>Total Plumbing Permits:</b>	<b>9</b>	<b>9</b>	<b>3</b>		<b>\$2,039.75</b>

**October Code Enforcement:**

Warnings: 166

Citations: —

**October Inspections:**

Building: 45      Electrical: 24      Plumbing: 12      Electrical Exams: 3

• **Fire Department Report for October 2011**

	Month	Y.T.D.
General Alarms	11	49
Car Fires	0	8
Still Alarms	5	26
Paid still alarms	2	19
<b>Total:</b>	<b>18</b>	

• **Workplace Safety Report for August 2011**

There were no incidents in August. The following incident summary was filed:

Department	Injuries this Month	Year to Date 2011	Total in 2010	Restricted Days 2011	Lost Workdays This Year	Restricted Days Last Year (2010)	Lost Workdays Last Year (2010)
Parks	0	0	2	0	0	25	3
Fire	0	0	2	0	0	0	0
Police	0	3	9	0	0	39	23
Street	0	5	1	2	0	0	0
Water & Sewer	1	4	1	4	77	88	0
Maint.	0	1	1	0	0	68	0
Other	0	2	2	0	0	0	0
<b>TOTALS</b>	<b>1</b>	<b>15</b>	<b>18</b>	<b>6</b>	<b>77</b>	<b>220</b>	<b>26</b>

Effective January 1, 2002, OSHA changed the record keeping guidelines. The municipality now counts the number of days lost from the day after the injury until the employee returns to work. Weekend, holidays, vacation days or other days scheduled off are included in the lost days count to a maximum of 180 days.

**Unfinished Business and General Orders:**

- Introduced Ordinance No. 1497.1375-R:** An Ordinance To Amend The Ordinance Adopted To Establish The Wage And Salary Rates Of The Elected Officers, The Non-Elected Officers, And The Employees Of The Town Of Highland, Indiana, Particularly, Authorizing And Establishing A Special First Class Salary Tenure Based Authorized For The Metropolitan Police Department. *(The amendment intends to increase the pension benefit paid by the 1925 Fund, as requested by the representatives in the Police Department. If adopted employer costs for the 1977*

*defined benefit plan will increase. This will affect significant increase to the pensions paid under the terms of the 1925 Plan. The proposal was discussed at study sessions of June 13, 2011 (following the regular meeting); July 18, 2011; August 1, 2011 and August 15, 2011.) Introduced and filed by Councilor Herak at the Town Council meeting of August 22, 2011. There was no further action. The effective date will be retroactive to October 1, 2011.*

Councilor Kuiper moved the passage and adoption of Ordinance No. 1497.1375-R. Councilor Zemen seconded. Upon a roll call vote, there were four affirmatives, no negatives, and one abstention. With Councilors Zemen, Herak, Kuiper and Novak voting in the affirmative and Councilor Vassar abstaining, the motion passed. The ordinance was adopted.

ORDINANCE No. 1497.1375-R  
of the  
TOWN of HIGHLAND, INDIANA

**AN ORDINANCE to AMEND the ORDINANCE ADOPTED TO ESTABLISH THE WAGE and SALARY RATES of the ELECTED OFFICERS, the NON-ELECTED OFFICERS, and the EMPLOYEES of the TOWN of HIGHLAND, INDIANA, PARTICULARLY, AUTHORIZING AND ESTABLISHING A SPECIAL FIRST CLASS SALARY TENURE BASED AUTHORIZED FOR THE METROPOLITAN POLICE DEPARTMENT.**

**WHEREAS**, Title 36, Article 1 Chapter 4 of the Indiana Code confers certain general corporate powers on the several units of government in Indiana;

**WHEREAS**, Section fifteen of that chapter specifically provides that a unit of government may fix the level of compensation of its officers and employees; and

**WHEREAS**, I.C. 36-5-3-2 further provides in pertinent part that the town legislative body shall provide reasonable compensation for the other town officers and employees;

**WHEREAS**, I.C. 36-5-3-2(b), still further provides that the Town Legislative body shall, by ordinance fix the compensation of its own members and the Town Clerk-Treasurer;

**WHEREAS**, I.C. 36-5-3-2(c) still further provides that the compensation of an elected town officer may not be changed in the year for which it is fixed, nor may it be reduced below the amount fixed for the previous year;

**WHEREAS**, The Town Council of the Town of Highland, as the town legislative body, previously acted to fix the compensation of its elected officers, appointed officers and employees of the Town for the year ensuing, by passage and adoption of Ordinance No. 1375;

**WHEREAS**, The Town Council of the Town of Highland has been advised that modification to certain provisions of Ordinance No. 1375, as amended, would be desirable, in order to provide for an increase to the pension benefit paid to the several beneficiaries of the 1925 Police Pension Fund;

**WHEREAS**, The Town Council of the Town of Highland, as the town legislative body, now desires to further modify and fix the compensation of its elected officers, appointed officers and employees of the Town for the year and to further perfect the wage and salary ordinance, in order to provide for an increase to the pension benefit paid to the sixteen plus eight beneficiaries of the 1925 Police Pension Fund,

**NOW, THEREFORE, BE IT HEREBY ORDAINED** by the Town Council of the Town of Highland, Lake County, Indiana, that the Wages, Salaries, and special detail levels of the Officers and Employees of the Town of Highland, are hereby established and fixed, pursuant to the provisions indicated herein as follows:

**Provision 1.** That subdivision (c) of Section 10 of Ordinance No. 1375 as amended, be repealed in its entirety and replaced with a new subdivision which shall be identified as subdivision (c) of Section 10, which shall read as follows:

**Section 10.** That subject to the provisions of this ordinance, the salary and wages for the non-elected officers and employees of the Town of Highland are hereby fixed for its **Metropolitan Police Department** as follows:

**(c) Other Police Officers and Assignments.**

- (1)** All initial appointments to the Metropolitan Police Department, regardless of previous law enforcement experience, shall be probationary in nature pursuant to Regulation 11 of the Metropolitan Police Department and under the authority of IC 36-8-9-7. The basis for promotion to the several grades (classes) will be based upon written guidelines, rules or regulations determined by the Town Board of Metropolitan Police Commissioners.
- (2)** A candidate/officer possessing a Law Enforcement Academy certification is eligible for initial appointment to Police Officer classes 1-4. A candidate/officer possessing no Law Enforcement Academy certification is only eligible for initial appointment to Police Officer class 4.
- (3)** There is established a pay grade styled as Police Officer 1 (Special). An officer possessing the

rank of Police Officer First (Class), that possesses at least thirty four years of service as a police officer, the last twenty-five of which have been served consecutively and successfully with the Highland Metropolitan Police Department, shall be paid the identified biweekly salary as base pay. For the purposes of establishing pension benefits under IC 36-8-1-11, IC 36-8-6-9, IC 36-8-6-9.6, IC 36-8-8-8 and IC 36-8-8-11, or employer contributions under IC 36-8-8-6, the salary of the Patrol Officer 1 (Special) plus the longevity pay for twenty years shall be used.

	Starting Rate	Incumbent Rate
<b>Police Officer 1 (Special)</b>	<b>\$2,166.31</b>	<b>\$2,166.31 bi-weekly</b>
Police Officer 1	\$1,974.00	\$1,974.00 bi-weekly
Police Officer 2	\$1,741.02	\$1,741.02 bi-weekly
Police Officer 3	\$1,630.25	\$1,630.25 bi-weekly
Police Officer 4 (no LEA certification)	\$1,476.71	\$1,476.71 bi-weekly

~~(3)~~ (4) The following represent assignments in the Metropolitan Police Department for which the following salaries are authorized. Persons so assigned shall be paid the greater of the assigned person's pay attached to his or her actual service rank or grade or the pay associated with the listed assignments depicted as follows:

Division Commander ( 3 )	\$2,313.49 bi-weekly
Deputy Commander (1)	\$2,190.68 bi-weekly

~~(4)~~ (5) The following rank has been deemed a trace rank. Only officers employed in good standing with the Metropolitan Police Department on or before April 12, 2001 shall be eligible to elevation to the trace rank of Lance Corporal. This trace rank shall be conferred on all Patrol Officers First Class, who meet the date eligibility indicated, who have successfully completed ten (10) years of continuous service with the Highland Metropolitan Police Department and upon approval of the Town Board of Metropolitan Police Commissioners. Officers currently holding such rank will continue to hold such rank until their promotion or separation from service with the Metropolitan Police Department at the level of pay set forth in this ordinance. Having separated, an officer having once been eligible to hold the trace rank or having the trace rank at the time of separation shall not be eligible hold such rank if officer is later re-hired unless ordered by a court.

Lance Corporal	\$2,021.67 bi-weekly
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**Provision 2.** That all portions of ordinances in conflict with this ordinance are hereby repealed and are of no further force nor effect;

**Provision 3.** That the provisions set forth in this ordinance shall be effective retroactive to October 1, 2011, upon passage and adoption by the signature of the municipal executive, pursuant to IC 36-5-2-10.

Introduced and Filed on the 22<sup>nd</sup> day of August 2011. Consideration on same meeting of introduction was not sought, pursuant to IC 36-5-2-9.8.

**DULY ORDAINED and ADOPTED** this 14<sup>th</sup> Day of November 2011 by the Town Council of the Town of Highland, Lake County, Indiana, having been passed by a vote of 4 in favor and 0 opposed.

**TOWN COUNCIL of the TOWN of  
HIGHLAND, INDIANA**

Brian J. Novak, President (IC 36-5-2-10)

Attest:

Michael W. Griffin, IAMC/MMC/CPFA  
Clerk-Treasurer (IC 33-16-4-1; IC 36-5-6-5)

- Proposed Ordinance No. 1501:** An Ordinance to Amend the Highland Municipal Code, repealing Sections §§ 211.50 through 211.62, styled as Flood Hazard Regulations, and replacing them with successor provisions, informed from a model ordinance regarding Flood Hazard Areas.

Councilor Zemen introduced and moved the consideration at the same meeting of introduction of Ordinance No. 1501. Councilor Vassar seconded. Upon a roll call vote, a unanimous vote being necessary, there were five affirmatives and no negatives. The motion passed. The ordinance could be considered at the same meeting of its introduction.

Councilor Zemen moved the adoption at the same meeting of introduction of Ordinance No. 1501. Councilor Vassar seconded. Upon a roll call vote, a two-thirds vote being

necessary, there were five affirmatives and no negatives. The motion passed. The ordinance was adopted at the same meeting of its introduction.

**ORDINANCE NO. 1501  
OF THE  
TOWN OF HIGHLAND, INDIANA**

**An Ordinance to Amend the Highland Municipal Code, repealing Sections §§ 211.50 through 211.62, styled as Flood Hazard Regulations, and replacing them with successor provisions, informed from a model ordinance regarding Flood Hazard Areas.**

**WHEREAS,** The Indiana Department of Natural Resources referred to as "DNR" has requested that the Town of Highland update and adopt a new model ordinance regulating and adopting Flood Hazard Areas; and

**WHEREAS,** I.C. 36-1-3-4(b) specifically provides that a unit of local government has all powers granted it by statute and all other powers necessary or desirable in the conduct of its affairs, even though not granted by statute;

**WHEREAS,** IC 36-8-2-4 specifically provides that a unit of local government may regulate conduct, or use or possession of property, that might endanger the public health, safety, or welfare;

**WHEREAS,** IC 36-8-2-7, IC 36-9-2-10 and IC 36-9-2-11 specifically provide that a unit of local government may regulate any business use of a watercourse, the taking of water, or causing or permitting water to escape, from a watercourse as well as regulate conduct that might alter the temperature of water, or affect the flow of water, in a watercourse;

**WHEREAS,** The Subchapter styled as Flood Hazard Regulations, comprised of Sections §§ 211.50 through 211.62 of the Municipal Code of the Town of Highland now does provide for certain regulations of flood hazard areas in the Town of Highland;

**WHEREAS,** The aforementioned Subchapter has not been modified or updated since 1998, it is desirable to make such modifications to comply with Indiana Department of Natural Resources latest requirements; and

**WHEREAS,** The Town Council of Highland now desires to adopt amendments updating the current provisions of the Highland Municipal Code to bring into compliance regulations regarding flood hazards and to further perfect the administration of the municipality with regard to flood hazard regulation and management,

**NOW, THEREFORE BE IT ORDAINED,** by the Town Council of the Town of Highland, Indiana, as follows:

**Section 1.** That the Subchapter entitled Flood Hazard Regulations, comprised of Sections §§ 211.50 through 211.62 of the Highland Municipal Code be repealed in its entirety and amended by adding a new Subchapter entitled *Flood Hazard Regulations*, comprised of Sections 211.50 through 211.56, which shall read as follows:

**Section § 211.50. Statutory Authorization, Findings of Fact, Purpose, and Objectives.**

**(A). Statutory Authorization.**

The Indiana Legislature has in IC 36-7-4 and IC 14-28-4 granted the power to local government units to control land use within their jurisdictions. Therefore, the Town Council of the Town of Highland does hereby adopt the following floodplain management regulations.

**(B). Findings of Fact.**

- (1) The flood hazard areas of Highland are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
- (2) These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities, and by the occupancy in flood hazard areas by uses vulnerable to floods or hazardous to other lands which are inadequately elevated, flood-proofed, or otherwise unprotected from flood damages.

**(C). Statement of Purpose.**

It is the purpose of this ordinance to promote the public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (1) Restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards, which result in damaging increases in erosion or in flood heights or velocities;

- (2) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters;
- (4) Control filling, grading, dredging, and other development which may increase erosion or flood damage;
- (5) Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands; and,
- (6) Make federally subsidized flood insurance available for structures and their contents in the Town by fulfilling the requirements of the National Flood Insurance Program.

**(D). Objectives.**

The objectives of this ordinance are:

- (1) To protect human life and health;
- (2) To minimize expenditure of public money for costly flood control projects;
- (3) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) To minimize prolonged business interruptions;
- (5) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, and sewer lines, streets, and bridges located in floodplains;
- (6) To help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize flood blight areas, and;
- (7) To ensure that potential homebuyers are notified that property is in a flood area.

**Section § 211.51 Definitions.**

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted, so as to give them the meaning they have in common usage and to give this ordinance it's most reasonable application.

**A zone** means portions of the SFHA in which the principal source of flooding is runoff from rainfall, snowmelt, or a combination of both. In A zones, floodwaters may move slowly or rapidly, but waves are usually not a significant threat to buildings. These areas are labeled as Zone A, Zone AE, Zones A1-A30, Zone AO, Zone AH, Zone AR and Zone A99 on a FIRM or FHB. The definitions are presented below:

Zone A: Areas subject to inundation by the one-percent annual chance flood event. Because detailed hydraulic analyses have not been performed, no base flood elevation or depths are shown. Mandatory flood insurance purchase requirements apply.

Zone AE and A1-A30: Areas subject to inundation by the one-percent annual chance flood event determined by detailed methods. Base flood elevations are shown within these zones. Mandatory flood insurance purchase requirements apply. (Zone AE is on new and revised maps in place of Zones A1-A30.)

Zone AO: Areas subject to inundation by one-percent annual chance shallow flooding (usually sheet flow on sloping terrain) where average depths are between one and three feet. Average flood depths derived from detailed hydraulic analyses are shown within this zone. Mandatory flood insurance purchase requirements apply.

Zone AH: Areas subject to inundation by one-percent annual chance shallow flooding (usually areas of ponding) where average depths are between one and three feet. Average flood depths derived from detailed hydraulic analyses are shown within this zone. Mandatory flood insurance purchase requirements apply.

Zone AR: Areas that result from the decertification of a previously accredited flood protection system that is determined to be in the process of being restored to provide base flood protection. Mandatory flood insurance purchase requirements apply.

Zone A99: Areas subject to inundation by the one-percent annual chance flood event, but which will ultimately be protected upon completion of an under-construction Federal flood protection system. These are areas of special flood hazard where enough progress has been made on the construction of a protection system, such as dikes, dams, and levees, to consider it complete for insurance rating purposes. Zone A99 may only be used when the flood protection

system has reached specified statutory progress toward completion. No base flood elevations or depths are shown. Mandatory flood insurance purchase requirements apply.

**Accessory structure** (appurtenant structure) means a structure that is located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Accessory structures should constitute a minimal initial investment, may not be used for human habitation, and be designed to have minimal flood damage potential. Examples of accessory structures are detached garages, carports, storage sheds, pole barns, and hay sheds.

**Addition** (to an existing structure) means any walled and roofed expansion to the perimeter of a structure in which the addition is connected by a common load-bearing wall other than a firewall. Any walled and roofed addition, which is connected by a firewall or is separated by independent perimeter load-bearing walls, is new construction.

**Appeal** means a request for a review of the floodplain administrator's interpretation of any provision of this ordinance or a request for a variance.

**Area of shallow flooding** means a designated AO or AH Zone on the community's Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

**Base Flood Elevation (BFE)** means the elevation of the one-percent annual chance flood.

**Basement** means that portion of a structure having its floor sub-grade (below ground level) on all sides.

**Building** - see "Structure."

**Community** means a political entity that has the authority to adopt and enforce floodplain ordinances for the area under its jurisdiction.

**Community Rating System (CRS)** means a program developed by the Federal Insurance Administration to provide incentives for those communities in the Regular Program that have gone beyond the minimum floodplain management requirements to develop extra measures to provide protection from flooding.

**Critical facility** means a facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to, schools, nursing homes, hospitals, police, fire, and emergency response installations, installations which produce, use or store hazardous materials or hazardous waste.

**Development** means any man-made change to improved or unimproved real estate including but not limited to:

- (1) construction, reconstruction, or placement of a structure or any addition to a structure;
- (2) installing a manufactured home on a site, preparing a site for a manufactured home or installing a recreational vehicle on a site for more than 180 days;
- (3) installing utilities, erection of walls and fences, construction of roads, or similar projects;
- (4) construction of flood control structures such as levees, dikes, dams, channel improvements, etc.;
- (5) mining, dredging, filling, grading, excavation, or drilling operations;
- (6) construction and/or reconstruction of bridges or culverts;
- (7) storage of materials; or
- (8) any other activity that might change the direction, height, or velocity of flood or surface waters.

"Development" does not include activities such as the maintenance of existing structures and facilities such as painting, re-roofing; resurfacing roads; or gardening, plowing, and similar agricultural practices that do not involve filling, grading, excavation, or the construction of permanent structures.

**Elevated structure** means a non-basement structure built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, filled stem wall foundations (also called chain walls), pilings, or columns (posts and piers).

**Elevation Certificate** is a certified statement that verifies a structure's elevation information.

**Emergency Program** means the first phase under which a community participates in the NFIP. It is intended to provide a first layer amount of insurance at subsidized rates on all insurable structures in that community before the effective date of the initial FIRM.



**Encroachment** means the advance or infringement of uses, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

**Existing Construction** means any structure for which the “start of construction” commenced before the effective date of the community’s first floodplain ordinance.

**Existing manufactured home park or subdivision** means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the community’s first floodplain ordinance.

**Expansion to an existing manufactured home park or subdivision** means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

**FEMA** means the Federal Emergency Management Agency.

**Five-hundred year flood (500-year flood)** means the flood that has a 0.2 percent chance of being equaled or exceeded in any year.

**Flood** means a general and temporary condition of partial or complete inundation of normally dry land areas from the overflow, the unusual and rapid accumulation, or the runoff of surface waters from any source.

**Flood Boundary and Floodway Map (FBFM)** means an official map on which the Federal Emergency Management Agency (FEMA) or Federal Insurance Administration (FIA) has delineated the areas of flood hazards and regulatory floodway.

**Flood Hazard Boundary Map (FHBM)** means an official map of a community, issued by FEMA, where the boundaries of the areas of special flood hazard have been identified as Zone A.

**Flood Insurance Rate Map (FIRM)** means an official map of a community, on which FEMA has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

**Flood Insurance Study (FIS)** is the official hydraulic and hydrologic report provided by FEMA. The report contains flood profiles, as well as the FIRM, FBFM (where applicable), and the water surface elevation of the base flood.

**Flood Prone Area** means any land area acknowledged by a community as being susceptible to inundation by water from any source. (See “Flood”)

**Flood Protection Grade (FPG)** is the elevation of the regulatory flood plus two feet at any given location in the SFHA. (see “Freeboard”)

**Floodplain** means the channel proper and the areas adjoining any wetland, lake, or watercourse which have been or hereafter may be covered by the regulatory flood. The floodplain includes both the floodway and the fringe districts.

**Floodplain management** means the operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including but not limited to emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

**Floodplain management regulations** means this ordinance and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applications of police power which control development in flood-prone areas. This term describes federal, state, or local regulations in any combination thereof, which provide standards for preventing and reducing flood loss and damage. Floodplain management regulations are also referred to as floodplain regulations, floodplain ordinance, flood damage prevention ordinance, and floodplain management requirements.

**Floodproofing (dry floodproofing)** is a method of protecting a structure that ensures that the structure, together with attendant utilities and sanitary facilities, is watertight to the floodproofed design elevation with walls that are substantially impermeable to the passage of water. All structural components of these walls are capable of resisting hydrostatic and hydrodynamic flood forces, including the effects of buoyancy, and anticipated debris impact forces.

**Floodproofing certificate** is a form used to certify compliance for non-residential structures as an alternative to elevating structures to or above the FPG. This certification must be by a Registered Professional Engineer or Architect.

**Floodway** is the channel of a river or stream and those portions of the floodplains adjoining the channel which are reasonably required to efficiently carry and discharge the peak flood flow of the regulatory flood of any river or stream.

**Freeboard** means a factor of safety, usually expressed in feet above the BFE, which is applied for the purposes of floodplain management. It is used to compensate for the many unknown factors that could contribute to flood heights greater than those calculated for the base flood.

**Fringe** is those portions of the floodplain lying outside the floodway.

**Functionally dependent facility** means a facility which cannot be used for its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, ship repair, or seafood processing facilities. The term does not include long-term storage, manufacture, sales, or service facilities.

**Hardship** (as related to variances of this ordinance) means the exceptional hardship that would result from a failure to grant the requested variance. The Highland Town Council requires that the variance is exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is NOT exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.

**Highest adjacent grade** means the highest natural elevation of the ground surface, prior to the start of construction, next to the proposed walls of a structure.

**Historic structure** means any structure individually listed on the National Register of Historic Places or the Indiana State Register of Historic Sites and Structures.

**Increased Cost of Compliance (ICC)** means the cost to repair a substantially damaged structure that exceeds the minimal repair cost and that is required to bring a substantially damaged structure into compliance with the local flood damage prevention ordinance. Acceptable mitigation measures are elevation, relocation, demolition, or any combination thereof. All renewal and new business flood insurance policies with effective dates on or after June 1, 1997, will include ICC coverage.

**Letter of Map Amendment (LOMA)** means an amendment to the currently effective FEMA map that establishes that a property is not located in a SFHA. A LOMA is only issued by FEMA.

**Letter of Map Revision (LOMR)** means an official revision to the currently effective FEMA map. It is issued by FEMA and changes flood zones, delineations, and elevations.

**Letter of Map Revision Based on Fill (LOMR-F)** means an official revision by letter to an effective NFIP map. A LOMR-F provides FEMA's determination concerning whether a structure or parcel has been elevated on fill above the BFE and excluded from the SFHA.

**Lowest adjacent grade** means the lowest elevation, after completion of construction, of the ground, sidewalk, patio, deck support, or basement entryway immediately next to the structure.

**Lowest floor** means the lowest of the following:

- (1) the top of the lowest level of the structure;
- (2) the top of the basement floor;
- (3) the top of the garage floor, if the garage is the lowest level of the structure;
- (4) the top of the first floor of a structure elevated on pilings or pillars;
- (5) the top of the floor level of any enclosure, other than a basement, below an elevated structure where the walls of the enclosure provide any resistance to the flow of flood waters unless:
  - a). the walls are designed to automatically equalize the hydrostatic flood forces on the walls by allowing for the entry and exit of flood waters by providing a minimum of two openings (in addition to doorways and windows) in a minimum of two exterior walls having a total net area of one (1) square inch for every one square foot of enclosed area. The bottom of all such openings shall be no higher than one (1) foot above the exterior grade or the interior grade immediately beneath each opening, whichever is higher; and,

**B). SUCH ENCLOSED SPACE SHALL BE USABLE SOLELY FOR THE PARKING OF VEHICLES AND BUILDING ACCESS.**

**Manufactured home** means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle."

**Manufactured home park or subdivision** means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**Map amendment** means a change to an effective NFIP map that results in the exclusion from the SFHA of an individual structure or a legally described parcel of land that has been inadvertently included in the SFHA (i.e., no alterations of topography have occurred since the date of the first NFIP map that showed the structure or parcel to be within the SFHA).

**Map panel number** is the four-digit number followed by a letter suffix assigned by FEMA on a flood map. The first four digits represent the map panel, and the letter suffix represents the number of times the map panel has been revised. (The letter "A" is not used by FEMA, the letter "B" is the first revision.)

**Market value** means the building value, excluding the land (as agreed to between a willing buyer and seller), as established by what the local real estate market will bear. Market value can be established by independent certified appraisal, replacement cost depreciated by age of building (actual cash value), or adjusted assessed values.

**Mitigation** means sustained actions taken to reduce or eliminate long-term risk to people and property from hazards and their effects. The purpose of mitigation is two fold: to protect people and structures, and to minimize the cost of disaster response and recovery.

**National Flood Insurance Program (NFIP)** is the federal program that makes flood insurance available to owners of property in participating communities nationwide through the cooperative efforts of the Federal Government and the private insurance industry.

**National Geodetic Vertical Datum (NGVD) of 1929** as corrected in 1929 is a vertical control used as a reference for establishing varying elevations within the floodplain.

**New construction** means any structure for which the "start of construction" commenced after the effective date of the community's first floodplain ordinance.

**New manufactured home park or subdivision** means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the community's first floodplain ordinance.

**North American Vertical Datum of 1988 (NAVD 88)** as adopted in 1993 is a vertical control datum used as a reference for establishing varying elevations within the floodplain.

**Obstruction** includes, but is not limited to, any dam, wall, wharf, embankment, levee, dike, pile, abutment, protection, excavation, canalization, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation, or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water; or due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.

**One-hundred year flood (100-year flood)** is the flood that has a one percent (1%) chance of being equaled or exceeded in any given year. Any flood zone that begins with the letter A is subject to the one-percent annual chance flood. See "Regulatory Flood".

**One-percent annual chance flood** is the flood that has a one percent (1%) chance of being equaled or exceeded in any given year. Any flood zone that begins with the letter A is subject to the one-percent annual chance flood. See "Regulatory Flood".

**Participating community** is any community that voluntarily elects to participate in the NFIP by adopting and enforcing floodplain management regulations that are consistent with the standards of the NFIP.

**Physical Map Revision (PMR)** is an official republication of a community's FEMA map to effect changes to base (1-percent annual chance) flood elevations, floodplain boundary delineations, regulatory floodways, and planimetric features. These changes typically occur as a result of structural works or improvements, annexations resulting in additional flood hazard areas, or correction to base flood elevations or SFHAs.

**Post-FIRM construction** means construction or substantial improvement that started on or after the effective date of the initial FIRM of the community or after December 31, 1974, whichever is later.

**Pre-FIRM construction** means construction or substantial improvement, which started on or before December 31, 1974, or before the effective date of the initial FIRM of the community, whichever is later.

**Probation** is a means of formally notifying participating communities of violations and deficiencies in the administration and enforcement of the local floodplain management regulations.

**Public safety and nuisance**, anything which is injurious to the safety or health of an entire community, neighborhood or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

**Recreational vehicle** means a vehicle which is (1) built on a single chassis; (2) 400 square feet or less when measured at the largest horizontal projections; (3) designed to be self-propelled or permanently towable by a light duty truck; and (4) designed primarily not for use as a permanent dwelling, but as quarters for recreational camping, travel, or seasonal use.

**Regular program** means the phase of the community's participation in the NFIP where more comprehensive floodplain management requirements are imposed and higher amounts of insurance are available based upon risk zones and elevations determined in a FIS.

**Regulatory flood** means the flood having a one percent (1%) chance of being equaled or exceeded in any given year, as calculated by a method and procedure that is acceptable to and approved by the Indiana Department of Natural Resources and the Federal Emergency Management Agency. The regulatory flood elevation at any location is as defined in Section § 211.52 (B) of this ordinance. The "Regulatory Flood" is also known by the term "Base Flood", "One-Percent Annual Chance Flood", and "100-Year Flood".

**Repetitive loss** means flood-related damages sustained by a structure on two separate occasions during a 10-year period ending on the date of the event for which the second claim is made, in which the cost of repairing the flood damage, on the average, equaled or exceeded 25% of the market value of the structure at the time of each such flood event.

**Section 1316** is that section of the National Flood Insurance Act of 1968, as amended, which states that no new flood insurance coverage shall be provided for any property that the Administrator finds has been declared by a duly constituted state or local zoning authority or other authorized public body to be in violation of state or local laws, regulations, or ordinances that intended to discourage or otherwise restrict land development or occupancy in flood-prone areas.

**Special Flood Hazard Area (SFHA)** means those lands within the jurisdictions of the Town subject to inundation by the regulatory flood. The SFHAs of the Town of Highland are generally identified as such on the Lake County and Incorporated Areas Flood Insurance Rate Map prepared by the Federal Emergency Management Agency, dated January 18, 2012. The SFHAs of those parts of unincorporated Lake County that are within the extraterritorial jurisdiction of the Town or that may be annexed into the Town are generally identified as such on the Lake County and Incorporated Areas Flood Insurance Rate Map prepared by the Federal Emergency Management Agency and dated January 18, 2012. (These areas are shown on a FHBM or FIRM as Zone A, AE, A1-A30, AH, AR, A99, or AO).

**Start of construction** includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within 180 days of the permit date. The actual start means the first placement or permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footing, installation of piles, construction of columns, or any work beyond the stage of excavation for placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, foundations, or the erection of temporary forms. For substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

**Structure** means a structure that is principally above ground and is enclosed by walls and a roof. The term includes a gas or liquid storage tank, a manufactured home, or a prefabricated building. The term also includes recreational vehicles to be installed on a site for more than 180 days.

**Substantial damage** means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

**Substantial improvement** means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures that have incurred "substantial damage" regardless of the actual repair work performed. The term does not include improvements of structures to correct existing violations of state or local health, sanitary, or safety code requirements or any alteration of a "historic structure", provided that the alteration will not preclude the structures continued designation as a "historic structure".

**Suspension** means the removal of a participating community from the NFIP because the community has not enacted and/or enforced the proper floodplain management regulations required for participation in the NFIP.

**Variance** is a grant of relief from the requirements of this ordinance, which permits construction in a manner otherwise prohibited by this ordinance where specific enforcement would result in unnecessary hardship.

**Violation** means the failure of a structure or other development to be fully compliant with this ordinance. A structure or other development without the elevation, other certification, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.

**Watercourse** means a lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

**Water surface elevation** means the height, in relation to the North American Vertical Datum of 1988 (NAVD 88) or National Geodetic Vertical Datum of 1929 (NGVD) (other datum where specified) of floods of various magnitudes and frequencies in the floodplains of riverine areas.

**X zone** means the area where the flood hazard is less than that in the SFHA. Shaded X zones shown on recent FIRMs (B zones on older FIRMs) designate areas subject to inundation by the flood with a 0.2 percent chance of being equaled or exceeded (the 500-year flood). Unshaded X zones (C zones on older FIRMs) designate areas where the annual exceedance probability of flooding is less than 0.2 percent.

**Zone** means a geographical area shown on a FHBM or FIRM that reflects the severity or type of flooding in the area.

**Zone A** (see definition for A zone)

**Zone B, C, and X** means areas identified in the community as areas of moderate or minimal hazard from the principal source of flood in the area. However, buildings in these zones could be flooded by severe, concentrated rainfall coupled with inadequate local drainage systems. Flood insurance is available in participating communities but is not required by regulation in these zones. (Zone X is used on new and revised maps in place of Zones B and C.)

**Section § 211.52. General Provisions.**

**(A). Lands to Which This Ordinance Applies.**

This ordinance shall apply to all SFHAs and known flood prone areas within the jurisdiction of Highland.

**(B). Basis for Establishing Regulatory Flood Data.**

This ordinance's protection standard is the regulatory flood. The best available regulatory flood data is listed below. Whenever a party disagrees with the best available data, the party submitting the detailed engineering study needs to replace existing data with better data and submit it to the Indiana Department of Natural Resources for review and approval.

- (1) The regulatory flood elevation, floodway, and fringe limits for the studied SFHAs within the jurisdiction of Highland shall be as delineated on the one-percent annual chance flood profiles in the Flood Insurance Study of Lake County and Incorporated Areas dated January 18, 2012 and the corresponding Flood Insurance Rate Map prepared by the Federal Emergency Management Agency and dated January 18, 2012.
- (2) The regulatory flood elevation, floodway, and fringe limits for each of the SFHAs within the jurisdiction of Highland, delineated as an "A Zone" on the Lake County and Incorporated Areas Flood Insurance Rate Map prepared by the Federal Emergency Management Agency and dated January 18, 2012, shall be according to the best data available as provided by the Indiana Department of Natural Resources; provided the upstream drainage area from the subject site is greater than one square mile.
- (3) In the absence of a published FEMA map, or absence of identification on a FEMA map, the regulatory flood elevation, floodway, and fringe limits of any watercourse in the community's known flood prone areas shall be according to the best data available as provided by the Indiana Department of Natural Resources; provided the upstream drainage area from the subject site is greater than one square mile.

**(C). Establishment of Floodplain Development Permit.**

A Floodplain Development Permit shall be required in conformance with the provisions of this ordinance prior to the commencement of any development activities in areas of special flood hazard.

**(D). Compliance.**

No structure shall hereafter be located, extended, converted or structurally altered within the SFHA without full compliance with the terms of this ordinance and other applicable regulations. No land or stream within the SFHA shall hereafter be altered without full compliance with the terms of this ordinance and other applicable regulations.

**(E). Abrogation and Greater Restrictions.**

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

**(F). Discrepancy between Mapped Floodplain and Actual Ground Elevations.**

- (1) In cases where there is a discrepancy between the mapped floodplain (SFHA) on the FIRM and the actual ground elevations, the elevation provided on the profiles shall govern.
- (2) If the elevation of the site in question is below the base flood elevation, that site shall be included in the SFHA and regulated accordingly.
- (3) If the elevation (natural grade) of the site in question is above the base flood elevation, that site shall be considered outside the SFHA and the floodplain regulations will not be applied. The property owner should be advised to apply for a LOMA.

**(G). Interpretation.**

In the interpretation and application of this ordinance all provisions shall be:

- (1) Considered as minimum requirements;

- (2) Liberally construed in favor of the governing body; and,
- (3) Deemed neither to limit nor repeal any other powers granted under state statutes.

**(H). Warning and Disclaimer of Liability.**

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on available information derived from engineering and scientific methods of study. Larger floods can and will occur on rare occasions. Therefore, this ordinance does not create any liability on the part of Highland, the Indiana Department of Natural Resources, or the State of Indiana, for any flood damage that results from reliance on this ordinance or any administrative decision made lawfully thereunder.

**(I). Penalties for Violation.**

Failure to obtain a Floodplain Development Permit in the SFHA or failure to comply with the requirements of a Floodplain Development Permit or conditions of a variance shall be deemed to be a violation of this ordinance. All violations shall be considered a common nuisance and be treated as such in accordance with the provisions of the Zoning Code for Highland. All violations shall be punishable by a fine not exceeding \$250.00.

- (1) A separate offense shall be deemed to occur for each day the violation continues to exist.
- (2) The Highland Planning Commission shall inform the owner that any such violation is considered a willful act to increase flood damages and therefore may cause coverage by a Standard Flood Insurance Policy to be suspended.
- (3) Nothing herein shall prevent the Town from taking such other lawful action to prevent or remedy any violations. All costs connected therewith shall accrue to the person or persons responsible.

**Section §211.53. Administration.**

**(A). Designation of Administrator.**

The Town Council of Highland hereby appoints the Building Commissioner to administer and implement the provisions of this ordinance and is herein referred to as the Floodplain Administrator.

**(B). Permit Procedures.**

Application for a Floodplain Development Permit shall be made to the Floodplain Administrator on forms furnished by him or her prior to any development activities, and may include, but not be limited to, the following plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, earthen fill, storage of materials or equipment, drainage facilities, and the location of the foregoing. Specifically the following information is required:

- (1) Application stage.
  - a). A description of the proposed development;
  - b). Location of the proposed development sufficient to accurately locate property and structure in relation to existing roads and streams;
  - c). A legal description of the property site;
  - d). A site development plan showing existing and proposed development locations and existing and proposed land grades;
  - e). Elevation of the top of the lowest floor (including basement) of all proposed buildings. Elevation should be in NAVD 88 or NGVD;
  - f). Elevation (in NAVD 88 or NGVD) to which any non-residential structure will be floodproofed;
  - g). Description of the extent to which any watercourse will be altered or relocated as a result of proposed development, and;
- (2) Construction stage.

Upon placement of the lowest floor; or floodproofing, it shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the NAVD 88 or NGVD elevation of the lowest floor or floodproofed elevation, as built. Said certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by the same. When floodproofing is utilized for a particular structure said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. Any work undertaken prior to submission of the certification shall be at the permit holders' risk. (The Floodplain Administrator shall review the lowest floor and floodproofing elevation survey data submitted.) The permit holder shall correct deficiencies detected by

such review before any further work is allowed to proceed. Failure to submit the survey or failure to make said corrections required hereby shall be cause to issue a stop-work order for the project.

**(C). Duties and Responsibilities of the Floodplain Administrator.**

The Floodplain Administrator and/or designated staff is hereby authorized and directed to enforce the provisions of this ordinance. The administrator is further authorized to render interpretations of this ordinance, which are consistent with its spirit and purpose.

Duties and Responsibilities of the Floodplain Administrator shall include, but not be limited to:

- (1) Review all floodplain development permits to assure that the permit requirements of this ordinance have been satisfied;
- (2) Inspect and inventory damaged structures in the SFHA and complete substantial damage determinations;
- (3) Ensure that construction authorization has been granted by the Indiana Department of Natural Resources for all development projects subject to Section § 211.54, (E) and G (1) of this ordinance, and maintain a record of such authorization (either copy of actual permit or floodplain analysis/regulatory assessment.)
- (4) Ensure that all necessary federal or state permits have been received prior to issuance of the local floodplain development permit. Copies of such permits are to be maintained on file with the floodplain development permit;
- (5) Notify adjacent communities and the State Floodplain Coordinator prior to any alteration or relocation of a watercourse, and submit copies of such notifications to FEMA;
- (6) Maintain for public inspection and furnish upon request local permit documents, damaged structure inventories, substantial damage determinations, regulatory flood data, SFHA maps, Letters of Map Amendment (LOMA), Letters of Map Revision (LOMR), copies of DNR permits and floodplain analysis and regulatory assessments (letters of recommendation), federal permit documents, and "as-built" elevation and floodproofing data for all buildings constructed subject to this ordinance.
- (7) Utilize and enforce all Letters of Map Revision (LOMR) or Physical Map Revisions (PMR) issued by FEMA for the currently effective SFHA maps of the community.
- (8) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished;
- (9) Verify and record the actual elevation of the lowest floor (including basement) of all new or substantially improved structures, in accordance with Section § 211.53 (B);
- (10) Verify and record the actual elevation to which any new or substantially improved structures have been floodproofed, in accordance with Section § 211.53, (B);
- (11) Review certified plans and specifications for compliance.
- (12) Stop Work Orders
  - a). Upon notice from the floodplain administrator, work on any building, structure or premises that is being done contrary to the provisions of this ordinance shall immediately cease.
  - b). Such notice shall be in writing and shall be given to the owner of the property, or to his agent, or to the person doing the work, and shall state the conditions under which work may be resumed.
- (13) Revocation of Permits
  - a). The floodplain administrator may revoke a permit or approval, issued under the provisions of the ordinance, in cases where there has been any false statement or misrepresentation as to the material fact in the application or plans on which the permit or approval was based.
  - b). The floodplain administrator may revoke a permit upon determination by the floodplain administrator that the construction, erection, alteration, repair, moving, demolition, installation, or replacement of the structure for which the permit was issued is in violation of, or not in conformity with, the provisions of this ordinance.
- (14) Inspect sites for compliance. For all new and/or substantially improved buildings constructed in the SFHA, inspect before, during and after construction. Authorized **Town** officials shall have the right to enter and inspect properties located in the SFHA.

**Section § 211.54 Provisions for Flood Hazard Reduction.**

**(A). General Standards.**

In all SFHAs and known flood prone areas the following provisions are required:

- (1) New construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure;
- (2) Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces;
- (3) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage below the FPG;
- (4) New construction and substantial improvements shall be constructed by methods and practices that minimize flood damage;
- (5) Electrical, heating, ventilation, plumbing, air conditioning equipment, utility meters, and other service facilities shall be located at/above the FPG or designed so as to prevent water from entering or accumulating within the components below the FPG. Water and sewer pipes, electrical and telephone lines, submersible pumps, and other waterproofed service facilities may be located below the FPG;
- (6) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- (7) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- (8) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;
- (9) Any alteration, repair, reconstruction or improvements to a structure that is in compliance with the provisions of this ordinance shall meet the requirements of "new construction" as contained in this ordinance; and,
- (10) Any alteration, repair, reconstruction or improvement to a structure that is not in compliance with the provisions of this ordinance, shall be undertaken only if said non-conformity is not further, extended, or replaced.
- (11) Whenever any portion of the SFHA is authorized for use, the volume of space which will be occupied by the authorized fill or structure below the BFE shall be compensated for and balanced by an equivalent volume of excavation taken below the BFE. The excavation volume shall be at least equal to the volume of storage lost (replacement ratio of 1 to 1) due to the fill or structure.
  - a). The excavation shall take place in the floodplain and in the same property in which the authorized fill or structure is located;
  - b). Under certain circumstances, the excavation may be allowed to take place outside of but adjacent to the floodplain provided that the excavated volume will be below the regulatory flood elevation, will be in the same property in which the authorized fill or structure is located, will be accessible to the regulatory flood water, will not be subject to ponding when not inundated by flood water, and that it shall not be refilled;
  - c). The excavation shall provide for true storage of floodwater but shall not be subject to ponding when not inundated by flood water;
  - d). The fill or structure shall not obstruct a drainage way leading to the floodplain;
  - e). The grading around the excavation shall be such that the excavated area is accessible to the regulatory flood water;
  - f). The fill or structure shall be of a material deemed stable enough to remain firm and in place during periods of flooding and shall include provisions to protect adjacent property owners against any increased runoff or drainage resulting from its placement; and,
  - g). Plans depicting the areas to be excavated and filled shall be submitted prior to the actual start of construction or any site work; once site work is complete, but before the actual start of construction, the applicant shall provide to the Floodplain Administrator a certified survey of the excavation and fill sites demonstrating the fill and excavation comply with this article.



**(B). Specific Standards.**

In all SFHAs, the following provisions are required:

(1) In addition to the requirements of Section § 211.54, (A), all structures to be located in the SFHA shall be protected from flood damage below the FPG. This building protection requirement applies to the following situations:

a). Construction or placement of any new structure having a floor area greater than 400 square feet;

b). Addition or improvement made to any existing structure:

(i) where the cost of the addition or improvement equals or exceeds 50% of the value of the existing structure (excluding the value of the land);

(ii) with a previous addition or improvement constructed since the community's first floodplain ordinance.

c). Reconstruction or repairs made to a damaged structure where the costs of restoring the structure to its before damaged condition equals or exceeds 50% of the market value of the structure (excluding the value of the land) before damage occurred;

d). Installing a travel trailer or recreational vehicle on a site for more than 180 days.

e). Installing a manufactured home on a new site or a new manufactured home on an existing site. This ordinance does not apply to returning the existing manufactured home to the same site it lawfully occupied before it was removed to avoid flood damage; and

(2) **Residential Construction.** New construction or substantial improvement of any residential structure (or manufactured home) shall have the lowest floor; including basement, at or above the FPG (two feet above the base flood elevation). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of Section § 211.54, (B) (4).

(3) **Non-Residential Construction.** New construction or substantial improvement of any commercial, industrial, or non-residential structure (or manufactured home) shall either have the lowest floor, including basement, elevated to or above the FPG (two feet above the base flood elevation) or be floodproofed to or above the FPG. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of Section § 211.54, (B) (4). Structures located in all "A Zones" may be floodproofed in lieu of being elevated if done in accordance with the following:

a). A Registered Professional Engineer or Architect shall certify that the structure has been designed so that below the FPG, the structure and attendant utility facilities are watertight and capable of resisting the effects of the regulatory flood. The structure design shall take into account flood velocities, duration, rate of rise, hydrostatic pressures, and impacts from debris or ice. Such certification shall be provided to the official as set forth in Section § 211.53, (C). (10).

b). Floodproofing measures shall be operable without human intervention and without an outside source of electricity.

(4) **Elevated Structures.** New construction or substantial improvements of elevated structures shall have the lowest floor at or above the FPG.

Elevated structures with fully enclosed areas formed by foundation and other exterior walls below the flood protection grade shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls. Designs must meet the following minimum criteria:

a). provide a minimum of two openings located in a minimum of two exterior walls (having a total net area of not less than one square inch for every one square foot of enclosed area); and

b). the bottom of all openings shall be no more than one foot above the exterior grade or the interior grade immediately beneath each opening, whichever is higher; and,

c). openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions; and

d). openings are to be not less than 3 inches in any direction in the plane of the wall. This requirement applies to the hole in the wall, excluding any device that may be inserted such as typical foundation air vent device; and

e). access to the enclosed area shall be the minimum necessary to allow for parking for vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator); and

f). the interior portion of such enclosed area shall not be partitioned or finished into separate rooms; and

g). the interior grade of such enclosed area shall be at an elevation at or higher than the exterior grade; and

h). where elevation requirements exceed 6 feet above the highest adjacent grade, a copy of the legally recorded deed restriction prohibiting the conversion of the area below the lowest floor to a use or dimension contrary to the structure's originally approved design, shall be presented as a condition of issuance of the final Certificate of Occupancy.

(5) **Structures Constructed on Fill.** A residential or nonresidential structure may be constructed on a permanent land fill in accordance with the following:

a). The fill shall be placed in layers no greater than 1 foot deep before compacting to 95% of the maximum density obtainable with either the Standard or Modified Proctor Test method.

b). The fill should extend at least ten feet beyond the foundation of the structure before sloping below the FPG.

c). The fill shall be protected against erosion and scour during flooding by vegetative cover, riprap, or bulkheading. If vegetative cover is used, the slopes shall be no steeper than 3 horizontal to 1 vertical.

d). The fill shall not adversely affect the flow of surface drainage from or onto neighboring properties.

e). The top of the lowest floor including basements shall be at or above the FPG.

(6) **Standards for Manufactured Homes and Recreational Vehicles.** Manufactured homes and recreational vehicles to be installed or substantially improved on a site for more than 180 days must meet one of the following requirements:

a). The manufactured home shall be elevated on a permanent foundation such that the lowest floor shall be at or above the FPG and securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. This requirement applies to all manufactured homes to be placed on a site;

(i) outside a manufactured home park or subdivision;

(ii) in a new manufactured home park or subdivision;

(iii) in an expansion to an existing manufactured home park or subdivision; or

(iv) in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood.

b). The manufactured home shall be elevated so that the lowest floor of the manufactured home chassis is supported by reinforced piers or other foundation elevations that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. This requirement applies to all manufactured homes to be placed on a site in an existing manufactured home park or subdivision that has not been substantially damaged by a flood.

c). Manufactured homes with fully enclosed areas formed by foundation and other exterior walls below the flood protection grade shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in Section § 211.54, (B). 4.

d). Flexible skirting and rigid skirting not attached to the frame or foundation of a manufactured home are not required to have openings.

e). Recreational vehicles placed on a site shall either:

(i) be on site for less than 180 days; and,

(ii) be fully licensed and ready for highway use (defined as being on its wheels or jacking

system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions); or

(iii) meet the requirements for “manufactured homes” as stated earlier in this section.

**(C).. Standards for Subdivision Proposals.**

- (1) All subdivision proposals shall be consistent with the need to minimize flood damage;
- (2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
- (3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards, and;
- (4) Base flood elevation data shall be provided for subdivision proposals and other proposed development (including manufactured home parks and subdivisions), which is greater than the lesser of fifty lots or five acres.

**(D). Critical Facility.**

Construction of new critical facilities shall be, to the extent possible, located outside the limits of the SFHA. Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated to or above the FPG at the site. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the FPG shall be provided to all critical facilities to the extent possible.

**(E). Standards for Identified Floodways.**

Located within SFHAs, established in Section § 211.52, (B), are areas designated as floodways. The floodway is an extremely hazardous area due to the velocity of floodwaters, which carry debris, potential projectiles, and has erosion potential. If the site is in an identified floodway, the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Indiana Department of Natural Resources and apply for a permit for construction in a floodway. Under the provisions of IC 14-28-1 a permit for construction in a floodway from the Indiana Department of Natural Resources is required prior to the issuance of a local building permit for any excavation, deposit, construction, or obstruction activity located in the floodway. This includes land preparation activities such as filling, grading, clearing and paving etc. undertaken before the actual start of construction of the structure. However, it does exclude non-substantial additions/improvements to existing (lawful) residences in a non-boundary river floodway. (IC 14-28-1-26 allows construction of non-substantial additions/ improvements to residences in a non-boundary river floodway without obtaining a permit for construction in the floodway from the Indiana Department of Natural Resources. Please note that if fill is needed to elevate an addition above the existing grade, prior approval (construction in a floodway permit) for the fill is required from the Indiana Department of Natural Resources.)

No action shall be taken by the Floodplain Administrator until a permit (when applicable) has been issued by the Indiana Department of Natural Resources granting approval for construction in the floodway. Once a permit for construction in a floodway has been issued by the Indiana Department of Natural Resources, the Floodplain Administrator may issue the local Floodplain Development Permit, provided the provisions contained in Section § 211.54 of this ordinance have been met. The Floodplain Development Permit cannot be less restrictive than the permit for construction in a floodway issued by the Indiana Department of Natural Resources. However, a community's more restrictive regulations (if any) shall take precedence.

No development shall be allowed which acting alone or in combination with existing or future development, will increase the regulatory flood more than 0.14 of one foot; and

For all projects involving channel modifications or fill (including levees) the Town shall submit the data and request that the Federal Emergency Management Agency revise the regulatory flood data.

**(F). Standards for Identified Fringe.**

If the site is located in an identified fringe, then the Floodplain Administrator may issue the local Floodplain Development Permit provided the provisions contained in Section § 211.54 of this ordinance have been met. The key provision is that the top of the lowest floor of any new or substantially improved structure shall be at or above the FPG.

**(G). Standards for SFHAs Without Established Base Flood Elevation and/or Floodways/Fringes.**

- (1) Drainage area upstream of the site is greater than one square mile:

If the site is in an identified floodplain where the limits of the floodway and fringe have not yet been determined, and the drainage area upstream of the site is greater than one square mile, the Floodplain Administrator shall require the applicant

to forward the application, along with all pertinent plans and specifications, to the Indiana Department of Natural Resources for review and comment.

No action shall be taken by the Floodplain Administrator until either a permit for construction in a floodway or a floodplain analysis/regulatory assessment citing the one-percent annual chance flood elevation and the recommended Flood Protection Grade has been received from the Indiana Department of Natural Resources.

Once the Floodplain Administrator has received the proper permit for construction in a floodway or floodplain analysis/regulatory assessment approving the proposed development, a Floodplain Development Permit may be issued provided the conditions of the Floodplain Development Permit are not less restrictive than the conditions received from the Indiana Department of Natural Resources and the provisions contained in Section § 211.54 of this ordinance have been met.

- (2) Drainage area upstream of the site is less than one square mile:

If the site is in an identified floodplain where the limits of the floodway and fringe have not yet been determined and the drainage area upstream of the site is less than one square mile, the Floodplain Administrator shall require the applicant to provide an engineering analysis showing the limits of the floodplain and one-percent annual chance flood elevation for the site.

Upon receipt, the Floodplain Administrator may issue the local Floodplain Development Permit, provided the provisions contained in Section § 211.54 of this ordinance have been met.

- (3) The total cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the regulatory flood more than 0.14 of one foot and will not increase flood damages or potential flood damages.

**(H). Standards for Flood Prone Areas.**

All development in known flood prone areas not identified on FEMA maps, or where no FEMA published map is available, shall meet applicable standards as required per Section § 211.54.

**Section § 211.55. Variance Procedures.**

**(A). Designation of Variance and Appeals Board.**

The Town of Highland Advisory Board of Zoning Appeals as established by Highland Town Council of the Town of Highland shall hear and decide appeals and requests for variances from requirements of this ordinance.

**(B). Duties of Variance and Appeals Board.**

The board shall hear and decide appeals when it is alleged an error in any requirement, decision, or determination is made by the Floodplain Administrator in the enforcement or administration of this ordinance. Any person aggrieved by the decision of the board may appeal such decision to the Circuit or Superior Court of the County.

**(C). Variance Procedures.**

In passing upon such applications, the Town of Highland Advisory Board of Zoning Appeals shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and;

- (1) The danger of life and property due to flooding or erosion damage;
- (2) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- (3) The importance of the services provided by the proposed facility to the community;
- (4) The necessity to the facility of a waterfront location, where applicable;
- (5) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
- (6) The compatibility of the proposed use with existing and anticipated development;
- (7) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
- (8) The safety of access to the property in times of flood for ordinary and emergency vehicles;
- (9) The expected height, velocity, duration, rate of rise, and sediment of transport of the floodwaters at the site; and,

(10) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

**(D). Conditions for Variances.**

- (1) Variances shall only be issued when there is:
  - a). A showing of good and sufficient cause;
  - b). A determination that failure to grant the variance would result in exceptional hardship; and,
  - c). A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud or victimization of the public, or conflict with existing laws or ordinances.
- (2) No variance for a residential use within a floodway subject to Section § 211.54, (E) or (G) (1) of this ordinance may be granted.
- (3) Any variance granted in a floodway subject to Section § 211.54, (E) or (G) (1) of this ordinance will require a permit from the Indiana Department of Natural Resources.
- (4) Variances to the Provisions for Flood Hazard Reduction of Section § 211.54, (B), may be granted only when a new structure is to be located on a lot of one-half acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the flood protection grade.
- (5) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (6) Variances may be granted for the reconstruction or restoration of any structure individually listed on the National Register of Historic Places or the Indiana State Register of Historic Sites and Structures.
- (7) Any application to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation to which the lowest floor is to be built and stating that the cost of the flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation (See Section § 211.55, (E)).
- (8) The Floodplain Administrator shall maintain the records of appeal actions and report any variances to the Federal Emergency Management Agency or the Indiana Department of Natural Resources upon request (See Section § 211.55, (E)).

**(E). Variance Notification.**

Any applicant to whom a variance is granted shall be given written notice over the signature of a community official that:

- (1) The issuance of a variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and;
- (2) Such construction below the base flood level increases risks to life and property.

The Floodplain Administrator will maintain a record of all variance actions, including justification for their issuance, and report such variances issued in the community's biennial report submission to the Federal Emergency Management Agency.

**(F). Historic Structure.**

Variances may be issued for the repair or rehabilitation of "historic structures" upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as an "historic structure" and the variance is the minimum to preserve the historic character and design of the structure.

**(G). Special Conditions.**

Upon the consideration of the factors listed in Section § 211.55, and the purposes of this ordinance, the Board of Zoning Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.

**Section § 211.56. Severability.**

If any section, clause, sentence, or phrase of the subchapter is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this Ordinance or subchapter.

**Section 2.** This ordinance shall become and be in full force and effect on January 18, 2012, upon its passage and adoption evidenced by the executive's signature in the manner prescribed by IC 36-5-2-10(a).

Introduced and Filed on the 14<sup>th</sup> day of November 2011. Consideration on same evening of introduction attained a vote of 5 in favor and 0 opposed, pursuant to IC 36-5-2-9.8.

**DULY ORDAINED AND ADOPTED** this 14<sup>th</sup> Day of November 2011, by the Town Council of the Town of Highland, Lake County, Indiana, having been passed by a vote of 5 in favor and 0 opposed.

**TOWN COUNCIL of the TOWN of  
HIGHLAND, INDIANA**

Brian J. Novak, President (IC 36-5-2-10)

**Attest:**

Michael W. Griffin, IAMC/MMC/CPFA  
Clerk-Treasurer (IC 33-16-4-1; IC 36-5-6-5)

3. Action to approve overtime payments for Exempt Salaried Personnel, pursuant to Section 3 of Ordinance No. 1375 the Wage and Salary Ordinance, as amended and Section §4.03.01 of the Compensation and Benefits Ordinance. This waives the provisions of Section § 2.01 of the Compensation and Benefits Ordinance.

3.1 *The Metropolitan Police Chief requests favorable action for R. Potesta, who is an exempt salaried employee, and investigations division commander, in the amount of \$266.22, for work associated with OWI Roadblock work supported by a Grant, and an additional amount of \$100 for work associated with Highland Grove Mall Special Security.*

3.2 *The Metropolitan Police Chief requests favorable action for G. Georgeff, who is an exempt salaried employee, and administrative division commander, in the amount of \$266.22 for work associated with OWI Roadblock work supported by a Grant.*

Councilor Herak moved to approve the overtime for the exempt salaried personnel as presented. Councilor Kuiper seconded. Upon a roll call vote, there were five affirmatives and no negatives. The motion passed. The overtime pay as identified was approved.

4. **Works Board Order No. 2011-46:** An ORDER of the WORKS BOARD APPROVING and AUTHORIZING the Town Clerk-Treasurer to Enter into an extension of a current Lease Rental- Maintenance Agreement for ONE PITNEY BOWES POSTAGE METERING DEVICE, pursuant to IC 5-22 and §31.18(C) of the Municipal Code. *(This extends current agreement w/slight price decrease, protecting price for 48 months and at a savings from the equivalent of the current \$135.53 per month to \$135. U.S. Postal Regulations prohibit outright ownership of a U.S. Postal Meter Machine.)*

Councilor Herak moved the passage and adoption of the Works Board Order No. 2011-46. Councilor Kuiper seconded. Upon roll call vote, there were five affirmatives and no negatives. The motion passed. The Works Board Order was approved and adopted.

**Town of Highland  
Board of Works  
Order of the Works Board 2011-46**

**An ORDER of the WORKS BOARD APPROVING and AUTHORIZING the Town Clerk-Treasurer to Enter into a Lease- Agreement for ONE PITNEY BOWES POSTAGE METERING DEVICE, pursuant to IC 5-22 and §31.18(C) of the Municipal Code.**

**WHEREAS,** The Town of Highland, through its Town Council, has determined that a need exists to continue to utilize a postage metering device to provide efficient postal metering service to the several departments of the Town, pursuant to Highland Municipal Code, Section 31.17(A);

**WHEREAS,** The Town Clerk-Treasurer is the purchasing agent for the several executive departments of the Town, all pursuant to Highland Municipal Code, Section 31.19(D)(10);

**WHEREAS,** The Town of Highland through its Office of the Clerk-Treasurer has substantially complied with the provisions of the Highland Municipal Code, Section 31.20 (G)(2), having ascertained that both the total use rental price of the equipment sought and the annual payments under the considered lease rental agreement are less than the recorded quote threshold of \$25,000;

**WHEREAS**, The Town of Highland through its Office of the Clerk-Treasurer did received a lease rental agreement renewal proposal offered at less than the current lease agreement;

**WHEREAS**, The Town of Highland through its Office of the Clerk-Treasurer did review this renewal offer from **Pitney Bowes** for a **forty-eight (48) month lease rental** agreement for a **DM300 C System Postage Metering Devise and US Postal Scale** found its price reasonable, lower than the current cost of service, and recommends its approval; and

**WHEREAS**, As purchasing agency for the Office of the Clerk-Treasurer and several executive departments of the Town, the Highland Town Council must approve any leases or rental agreements with duration of greater than one year, all pursuant to the Highland Municipal Code, Sections 31.17 (A)(1), (A)(9), Section 31.18(C) and 31.19(B)(1)(a);

**WHEREAS**, There are sufficient and available appropriation and cash balances on credit to the proper Funds for 2011 to support the rental payments under the terms of the proposed agreement and the issuance of a purchase order, all pursuant to I.C. 5-22-17-3(e) and I.C. 5-22-18-5;

**WHEREAS**, The Town Council wishes now to act on the proposed lease rental agreement now presented,

**NOW, THEREFORE, BE IT RESOLVED**, by the Town Council of the Town of Highland, Indiana as follows:

**Section 1.** That Lease with Rental Agreement as presented by **Pitney Bowes** for a **forty-eight (48) month lease rental and maintenance** agreement for a **DM300 C System Postage Metering Devise and US Postal Scale** is hereby accepted and approved in each and every respect;

**Section 2.** That the proposed lease rental and maintenance charges presented in the offer, providing a monthly payment of **\$135** is reasonable and fair;

**Section 3.** That the Town Clerk-Treasurer is hereby authorized and directed to execute the agreement and any additional documents in order to implement the terms of this accepted offer;

**Section 4.** That when the fiscal body of the governmental body makes a written determination that funds are not appropriated or otherwise available to support continuation of performance of a contract:

(a) the contract is considered canceled;and

(b) a determination by the fiscal body that funds are not appropriated or otherwise available to support continuation of performance is final and conclusive all pursuant to IC 5-22-17-5.

**Section 5.** That the Clerk-Treasurer is hereby authorized to expend appropriated funds as budgeted in order to support and implement the agreement.

**Be it So Ordered**

**DULY, ADOPTED and ORDERED BY** the Town Council of the Town of Highland, Lake County, Indiana, acting as the Board of Works, this 14<sup>th</sup> day of November 2011 having passed by a vote of 5 in favor and 0 opposed.

**TOWN COUNCIL of the TOWN of  
HIGHLAND, INDIANA**

Brian J. Novak, President (IC 36-5-2-10)

Attest:

Michael W. Griffin, IAMC/MMC/CPFA  
Clerk-Treasurer (IC 33-16-4-1;IC 36-5-6-5)

5. **Enactment No. 2011-47:** An Enactment Authorizing And Approving A Wellness Initiative For The Municipal Workforce The Health And Wellness Program Of The IACT Medical Trust, For Its Participating Members, Establishing A Limited Group Health And Wellness Benefit For Municipal Employees And Their Covered Spouses, And Establishing A Compensatory Incentive Under The Terms Of The Compensation And Benefits Ordinance, Pursuant To IC 36-1-3 And Other Relevant Statutes.

Councilor Herak introduced and moved the consideration at the same meeting of introduction of Enactment No. 2011-47. Councilor Vassar seconded. Upon a roll call vote, a unanimous vote being necessary, there were five affirmatives and no negatives. The motion passed. The enactment could be considered.

Councilor Zemen moved the passage and adoption at the same meeting of introduction of Enactment No. 2011-47. Councilor Vassar seconded. Upon a roll call vote, a two-thirds vote being necessary, there were five affirmatives and no negatives. The motion passed. The enactment was adopted at the same meeting of its introduction.

TOWN OF HIGHLAND  
**Enactment (ordinance)**  
Enactment No. 2011-47

AN ENACTMENT AUTHORIZING and APPROVING A WELLNESS INITIATIVE FOR THE MUNICIPAL WORKFORCE the HEALTH and WELLNESS PROGRAM OF THE IACT MEDICAL TRUST, FOR ITS PARTICIPATING MEMBERS, ESTABLISHING A LIMITED GROUP HEALTH AND WELLNESS BENEFIT FOR MUNICIPAL EMPLOYEES AND THEIR COVERED SPOUSES, AND ESTABLISHING A COMPENSATORY INCENTIVE UNDER THE TERMS OF THE COMPENSATION AND BENEFITS ORDINANCE, PURSUANT TO IC 36-1-3 AND OTHER RELEVANT STATUTES.

WHEREAS, The Town Council is the fiscal and legislative body of the Town of Highland;

WHEREAS, IC 36-1-3-2 confers upon all local units the powers that they need for the effective operation of government as to local affairs;

WHEREAS, IC 36-1-3-6 (b)(1) prescribes that any such exercise of power shall be authorized through enactment of an ordinance passed by the legislative body; and

WHEREAS, IC 36-1-4, sections 14 and 15 provide in pertinent parts for the establishment of a system of employment for any class of employee and for fixing the level of compensation of its officers and employees; and

WHEREAS, IC 5-10-8 further authorizes Indiana political subdivisions to participate in and provide for certain compensation plans, and group benefits for its public workforce and officers, some of which have been duly adopted and established by ordinance of the Town; and

WHEREAS, IC 36-5, Chapters 3 and 4 provide additional authority and guidelines for fixing the level of compensation of officers and employees in towns; and

WHEREAS, The Town Council has determined that the establishment of a program for Health and Wellness services for its public workforce, consistent with Indiana Statutes, would be of benefit to support and carryout the public purposes of the municipality; and

WHEREAS, The Town Council now desires to authorize and establish such a program for medical infertility services for its public workforce on a limited basis;

NOW, THEREFORE, BE IT HEREBY ENACTED AND ORDAINED BY the Town Council of the Town of Highland, Lake County, Indiana, as follows:

**Section 1.** That there is established for the municipality a program for Health and Wellness services for its public workforce pursuant to and consistent with the provisions of the relevant governing law;

**Section 2.** That *Comprehensive Care*, has presented a proposal to operate and provide a program of health and wellness services to the Town of Highland's municipal workforce and covered spouses, who are enrolled in either the PPO or the HDHP of the United Health Care group medical insurance plan, in which *Comprehensive Care* will provide delivery of wellness services, particularly in performing biometric screening and related services, subject to a \$35 co-pay for the primary covered employee and spouse to be paid by the local government;

**Section 3.** That the Town Council further hereby authorizes and approves the payment of the identified co-payment, as part of the program, in the amount of \$35 for every covered employee and spouse covered by the group health plan, who also participates in the **biometric screening and related services**, and finds and determines the co-payment to be a fee to be paid on behalf of the participants in the group health plan as employees by the Town of Highland as employer;

**Section 4. (A)** That the source of the funding for this program shall be the properly identified appropriation in Office of the Town Council in the Corporation General Fund which is established to support wellness expenses.

(B) That the Clerk-Treasurer shall take the steps necessary to carry out the administration of this program from the fund and account identified herein, including causing any additional appropriations hearing(s) that may be necessary, and properly encumbering the amount of money necessary to cover the liability likely to be incurred under the terms of this ordinance.

(C) That the payment of the fee by the municipality for the covered spouse of a covered employee and the Clerk-Treasurer is subject to sufficiency of appropriations available for expenditure pursuant to I.C. 6-1.1-18.



**Section 5.** (A) That in order to incentivize and encourage greater participation by the employees of the municipality, a financial incentive as described in subdivision (B) of this section shall be authorized;

(B) That the provisions of the Compensation and Benefits Ordinance commonly known as the Municipal Employees handbook, particularly Section §6.03.04 is hereby amended to read as follows:

**§ 6.03.04 Employee Contribution for Certain Group Insurance Premiums**

All full-time employees and the Clerk-Treasurer shall share the cost of the group health premium, which are to be paid through a salary reduction (payroll deduction) taken as a pre-tax payment according to the terms of a duly authorized IRC Section 125 Plan for the Town of Highland. The amount of the shared premium shall be fixed by ordinance as may be passed from time to time. All employees and elected officers may elect to include dependents under their group coverage.

All full-time employees and the Clerk-Treasurer who elect to participate in the group health insurance shall pay the identified share of the group premium based upon the type of enrolled coverage selected by the employee or the clerk-treasurer for the duration of such coverage. The identified share of the group premium will be calculated as a percentage share of the annual gross base wage or salary of the covered employee, excluding longevity or overtime and then fixed as a flat amount to be paid bi-weekly, according to the following schedule:

**Employee Share of Health Insurance Premium**

Employee Single Coverage	1% of Base Pay
Employee With Children	2% of Base Pay
Employee With Spouse	2% of Base Pay
Family Coverage with Spouse and Children	3% of Base Pay

**Participants in Biometric Screening.** All full-time employees and the Clerk-Treasurer who elect to participate in the group health insurance and who have **participated in the biometric screening as part of the developing wellness program in 2011**, shall pay the identified share of the group premium based upon the type of enrolled coverage selected by the employee or the clerk-treasurer for the duration of such coverage, **at a reduced rate for coverage in the year 2012**. The identified share of the group premium will be calculated as a percentage share of the annual gross base wage or salary of the covered employee, excluding longevity or overtime and then fixed as a flat amount to be paid bi-weekly, according to the following schedule:

**Employee Share of Health Insurance Premium  
for Biometric Screening Participants**

Employee Single Coverage	.5% of Base Pay
Employee With Children	1.5% of Base Pay
Employee With Spouse	1.5% of Base Pay
Family Coverage with Spouse and Children	2.5% of Base Pay

(C) That the reduced employee group health premium shall be effective and apply to all paydays occurring on or from January 1, 2012 and before January 1, 2013. The amendment to Section 6.03.04 of the Compensation and Benefits Ordinance shall be expire on January 1, 2013. For those employees who received this reduction in a previous year which but for this enactment would be expiring, they are eligible to maintain the reduction provided they participate in the wellness program described in and authorized by this enactment.

**Section 6.** Subject to the approving action of the Highland Park and Recreation Board, all covered employees who elect to participate in the well program will be eligible to obtain an individual membership at the Highland Parks & Recreation Fitness Center at a modified fee to provide further incentive to participation in the IACT Medical Trust Wellness Program.

**Section 7.** That this enactment is to be construed as a companion enactment complimentary to any ordinance or enactment passed from time to time establishing compensation and benefits, known as the Compensation and Benefits Ordinance and commonly promulgated as the Municipal Employees Handbook;

(A) That this enactment shall be effective to the extent that it is not in conflict with Federal or State law;

(B) That all other ordinances, enactments and resolutions related to the subject matter of this enactment and not in conflict with its provisions, remain in full force and effect;

**Section 8.** That this authorization shall be construed as an elective group benefit and not an entitlement;

**Section 9.** That this enactment shall become and remain in full force and effect from and after the date of its passage and adoption upon its signature by the executive as attested thereto by the clerk-treasurer, in the manner prescribed by IC 36-5-2-10(a).

Introduced and Filed on the 14<sup>th</sup> day of November 2011. Consideration on same day or at same meeting of introduction experienced a vote of 5 in favor and 0 opposed, pursuant to IC 36-5-2-9.8.

**DULY ORDAINED and ADOPTED** this 14<sup>th</sup> Day of November 2011, by the Town Council of the Town of Highland, Lake County, Indiana, having been passed by a vote of 5 in favor and 0 opposed.

**TOWN COUNCIL of the TOWN of  
HIGHLAND, INDIANA**

Brian J. Novak, President (IC 36-5-2-10)

Attest:

Michael W. Griffin, IAMC/MMC/CPFA  
Clerk-Treasurer (IC 33-16-4-1;IC 36-5-6-5)

6. **Resolution No. 2011-48:** A Resolution to Approve and Adopt an Amendment to the Shared Ethics Initiative Interlocal Cooperation Agreement, extending authorized membership to include municipalities in Porter and LaPorte Counties, and clarifying authority of the Joint Board of Delegates.

Councilor Zemen moved the passage and introduction of Resolution No. 2011-48. Councilor Herak seconded. Upon a roll call vote, there were five affirmatives and no negatives. The motion passed. The resolution was adopted.

**TOWN OF HIGHLAND, INDIANA  
RESOLUTION NO. 2011-48**

**A RESOLUTION AUTHORIZING A FOURTH AMENDMENT TO THE INTERLOCAL ETHICS COOPERATIVE AGREEMENT**

**WHEREAS**, Indiana Code 36-1-7-1, et seq., allows local government entities to make the most efficient use of the powers by enabling them to mutually purchase and utilize equipment and supplies for the mutual benefit of each other; and

**WHEREAS**, The City of Crown Point, the Town of Highland, the Town of Munster, the Town of Schererville and the City of Whiting are signatories to an Interlocal Ethics Cooperation Agreement dated February 2009 that enabled each municipality authority to contract on behalf of each other on a basis of mutual advantage so as to better provide public services at a lesser cost; and

**WHEREAS**, The political subdivisions that are signatories to said Interlocal Ethics Cooperation Agreement desire to amend the joint agreement pursuant to IC 36-1-7-1, et seq., to better provide and utilize resources and services for the mutual benefit of the participating entities, and at a shared cost, particularly related to administration of shared ethics entity, and the shared ethics initiative.

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF HIGHLAND as follows:**

**Section 1.** The President of the Town Council and Clerk-Treasurer are authorized to sign an amendment to the Interlocal Ethics Cooperative Agreement, a copy of which is attached to this Resolution and incorporated herein by reference.

**Section 2.** This Resolution shall take effect and be in full force and effect from and after its passage by the Town Council of the Town of Highland, Lake County, Indiana.

**Duly Approved and Adopted** by the Town Council of the Town of Highland, Lake County, Indiana this 14<sup>th</sup> day of November 2011 by a vote of 5 in favor and 0 opposed.

**TOWN COUNCIL of the TOWN of  
HIGHLAND, INDIANA**

Brian J. Novak, President (IC 36-5-2-10)

Attest:

Michael W. Griffin, IAMC/MMC/CPFA  
Clerk-Treasurer (IC 33-16-4-1;IC 36-5-6-5)

**Comments from the Town Council Members**  
**(For the Good of the Order)**

- **Councilor Bernie Zemen:** • *Park and Recreation Board Liaison Lake County Solid Waste Management District Board of Directors • President's designee to Chair the Select Centennial Commission • Chamber of Commerce, Liaison • Redevelopment Commission Liaison.*

Councilor Zemen acknowledged the Parks and Recreation Director who reported that that enrollment was at 300 plus for the Pumpkin Plod; and that 67 fitness memberships had been filed, of which 65 were from in town.

- **Councilor Mark Herak:** • *Budget and Finance Chair • Liaison to the Board of Waterworks Directors • Liaison to the Board of Sanitary Commissioners.*

Councilor Herak acknowledged the Public Works Director, who reported on the status of several projects associated with the Sanitary District and the Street Department. It was further reported that the road salt supply was sufficient.

- **Councilor Dan Vassar:** • *Plan Commission, member.*

Councilor Vassar, while expressing appreciation for the donations supporting a playground as presented by Dan Dernulc at a previous meeting, expressed some reservations about the use of a donated proceeds recently to erect a playground at Sharp Athletic Complex. Councilor Vassar expressed his belief that because the complex is limited to those who participate in the adult softball program and so other Highland young persons may not have access as well.

Councilor Vassar further expressed concern about what he perceived to be dilatory progress on the repair of the Kennedy Avenue welcoming sign.

- **Councilor Konnie Kuiper:** • *Fire Department, Liaison • Town Board of Metropolitan Police Commissioners, Liaison.*

Councilor Kuiper recognized the Metropolitan Police Chief who reported the progress of the recent authorized canine training, the acquisition of four new police cars, and a Crime Watch Initiative displaying authorized uniforms for public employees to assist residents in discerning any fraud attempts.

- **Councilor Brian Novak:** • *Advisory Board of Zoning Appeals, Liaison • Chairman, Board of Police Pension Trustees • Municipal Executive.*

Town Council President acknowledged the Building Commissioner who offered a brief survey regarding matters before the Advisory Board of Zoning Appeals.

Town Council President further expressed congratulations to all the Town Councilors and the Town Clerk-Treasurer on their re-election.

**Comments from the Public or Visitors**

1. Ken Balon, \_\_\_\_\_, Pension Secretary, indicated that he was speaking on behalf of the retirees and the widows and survivors of the 1925 Pension Plan for the Town Council action adopting Ordinance No. 1497.1375-R.
2. Ed Dabrowski, 3636-38th Street, Highland, reported that he paid his property taxes a day after the November 10 due date, and expressed his surprise and unhappiness at the added fee and penalty he was required to pay owing to being a day late. He further expressed his hope that it would be paid to Highland.

**Payment of Accounts Payable Vouchers.** There being no further comments from the public or visitors, Councilor Zemen moved to allow the vendors accounts payable vouchers as filed

on the pending accounts payable docket, covering the period October 25, 2011 through to November 14, 2011 as well as the payroll accounts payable dockets for the paydays of October 7, 2011. Councilor Vassar seconded. Upon a vote *viva voce*, the motion passed. The accounts payable vouchers for vendors were allowed and the clerk-treasurer was authorized to make payment.

**Vendors Accounts Payable Docket:**

**General Fund, \$271,292.39; Motor Vehicle Highway and Street (MVH) Fund, \$8,553.25; Local Road and Street (LRS) Fund, \$2,622.59; VIPS/Parks Public Safety Fund, \$1,000.00; Forfeited and Seized Assets Fund, \$1,000.00; Law Enforcement Cont. Education and Supply Fund, \$774.68; Capital Retainage Agency and Trust Fund, \$23,410.00; Flexible Savings Agency (FSA) Fund, \$2,080.86; Insurance Premium Fund, \$125,730.39; Information and Communications Technology Fund, \$9,153.99; Solid Waste Grant Fund, \$120,346.45; Civil Donation Fund, \$27.16; Major Moves Fund, \$26,784.94; Special Events Non Reverting Fund, \$378.00; Police Pension 1925 Plan Fund, \$96.94; Municipal Cumulative Capital Development Fund, \$48,363.36; General Improvement Fund, \$36.00; Traffic and Law Violations Agency Fund, \$8,794.50; Safe Neighborhood Grant Fund, \$10,134.63; Sexual Predator Grant Fund, \$3,926.38; Gaming Revenue Sharing Fund, \$27,583.80; Corporation Capital Fund, \$38,098.33; Special Public Safety Fund, \$41,371.12; Payroll Fund, \$3.25; Total: \$771,563.01.**

**Payroll Accounts Payable Docket for October 7, 2011.**

*Office of the Clerk-Treasurer, \$11,188.56; Building and Inspection Department, \$6,501.12; Metropolitan Police Department, \$96,920.50; Fire Department, \$2,738.48; Public Works (Agency) Department, \$52,263.48. Grand Total: \$169,612.14.*

**Adjournment.** Councilor Zemen moved that the plenary meeting be adjourned. Councilor Kuiper seconded. Upon a vote *viva voce*, the motion passed. The regular meeting of the Town Council of Monday, November 14, 2011 was adjourned at 7:36 O'clock p.m. There was no study session following the plenary meeting.

Michael W. Griffin, IAMC/MMC/CPFA  
Clerk-Treasurer